IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.M.JOSEPH

THURSDAY, THE 25TH OCTOBER 2007 / 3RD KARTHIKA 1929

WP(C).No. 29489 of 2007(I)

PETITIONER:
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1. C.NIZAR,
PROVISIONAL CONDUCTOR, KERALA STATE ROAD TRANSPORT CORPORATION, KANNUR DEPOT, KANNUR.

2. JOMON THOMAS,
PROVISIONAL CONDUCTOR, KERALA STATE ROAD TRANSPORT CORPORATION, MANANTHAVADY DEPOT, WAYANAD DISTRICT.

3. K.V.GOPALAKRISHNAN,
PROVISIONAL CONDUCTOR, KERALA STATE ROAD TRANSPORT CORPORATION, KASARAGOD DEPOT, KASARAGOD.

BY ADV. SRI.K.SHRIHARI RAO

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY
ITS SECRETARY, TRANSPORT DEPARTMENT,
SECRETARIAT, TRIVANDRUM.

2. KERALA STATE ROAD TRANSPORT CORPORATION,
REPRESENTED BY ITS CHAIRMAN AND MANAGING DIRECTOR,
TRANSPORT BHAVAN, TRIVANDRUM.

BY ADV.SRI.K.PRABHAKARAN, SC - KSRTC
GOVT. PLEADER SMT. ANU SIVARAMAN

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 25/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K.M.JOSEPH, J.

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W.P.(c).No.29489 OF 2007

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Dated this the 25th day of October , 2007

JUDGMENT

The prayer in the writ petition is for a writ of mandamus or any other appropriate writ directing respondents to grant DA and other allowances due to the petitioners as per Ext.P1 order including the benefit of regularisation. According to the petitioners their DA is not paid equally. According to the petitioners they are working as provisional conductors since 1999 without any break. According to them, Ext.P1 shows that they are entitled to DA and HRA. It is stated that petitioners are getting only Rs. 3380/- which means at the rate of Rs. 130 per day for 26 duties per month. It is stated that other conductors who entered into service on the same year as that of the petitioners are getting Rs. 4773/- per month including pay, D.A. and other allowances. They are doing the same duties, it is stated. It is stated that Ext.P2 shows that the first respondent regularised the service of 699 conductors and 6 painters who were recruited through employment exchange during the year 1978-1980. It is

further stated that the first respondent by letter dated 08-05-2006 addressed to the second respondent directed the second respondent to place the matter of regularisation of Drivers selected through employment exchange before the Director Board of KSRTC and take a decision favourable to the drivers who have served the Corporation for more than 10 years.

There is absolutely no reference to any demand made by the petitioners. It is settled law that unless exempting circumstances exist , the demand and refusal or demand and inaction are indispensable to maintain a petition for the issuance of a writ of mandamus. In so far as there is no such demand, I see no reason to entertain this writ petition. Accordingly, writ petition is dismissed. I make it clear that it is open to the petitioners to approach the respondents with an appropriate representation.

(K.M.JOSEPH, JUDGE)

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